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7 ILWU-PMA WELFARE PLAN, et al.,
8 Plaintiffs,
9 v.
10 SHARAM BORJKHANI, et al.,
11 Defendants.

Case No. 15-cv-04225-HSG

**CORRECTED ORDER REGARDING
EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER**

Re: Dkt. No. 11

12 On September 21, 2015, Plaintiffs, ILWU-PMA Welfare Plan and Trustees of the ILWU-
13 PMA Welfare Plan, moved the Court *ex parte* for entry of a temporary restraining order (“TRO”)
14 and for a preliminary injunction barring Defendants and Defendants’ former attorneys from
15 “dissipating funds” to be received from the settlement of another matter.

16 Under Federal Rule of Civil Procedure 65(b)(1), a court may issue a temporary restraining
17 order without written or oral notice to the adverse party or its attorneys only if: “(A) specific facts
18 in an affidavit or verified complaint clearly show that immediate and irreparable injury, loss, or
19 damage will result to the movant before the adverse party can be heard in opposition; and (B) the
20 movant’s attorney certifies in writing any efforts made to give notice and the reasons why it
21 should not be required.” Plaintiffs have not satisfied subpart (B) of the rule. Additionally,
22 because the TRO sought concerns funds that Defendants have not yet received, Plaintiffs have not
23 shown that “immediate and irreparable” loss or injury will result if the TRO does not issue without
24 notice to the Defendants.

25 Plaintiffs are directed to serve the documents submitted to the Court under Docket
26 Numbers 11-16 (the *ex parte* motion and supporting documentation) and 23 (this order) on all
27 named Defendants by no later than 5 p.m. PST on Wednesday, September 23, 2015. Any
28 Defendant opposing the relief sought by Plaintiffs must file a response with this Court by no later

1 than 5 p.m. PST on Friday, September 25, 2015. The Court will notify the parties whether a
2 hearing will be held.

3 **IT IS SO ORDERED.**

4 Dated: 9/23/15

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6 HAYWOOD S. GILLIAM, JR.
United States District Judge

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United States District Court
Northern District of California